

IN THE INTEREST OF: A.K.-B., A
MINOR

: IN THE SUPERIOR COURT OF
: PENNSYLVANIA

APPEAL OF: T.B., MOTHER

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: No. 1031 EDA 2026

Appeal from the Order Entered March 16, 2026
In the Court of Common Pleas of Philadelphia County Juvenile Division at
No(s): CP-51-DP-0000133-2025

BEFORE: McLAUGHLIN, J., KING, J., and BECK, J.

OPINION BY BECK, J.:

FILED OCTOBER 13, 2026

T.B. ("Mother") appeals from the permanency review order entered by the Philadelphia County Court of Common Pleas ("trial court") in a dependency action relating to her child A.K.-B. ("Child"), which directed her to provide a copy of her July 30, 2025, January 9, 2026, and January 23, 2026 psychiatric evaluations to all parties' counsel before the next court date. Mother argues that the order violated her constitutional right to privacy. We vacate the order and remand for further proceedings.

The trial court set forth the relevant underlying facts and procedural history as follows:

On February 19, 2025, the Philadelphia Department of Human Services ("DHS") filed a dependency petition regarding Child. DHS Dependency Petition[,], 2/19/2025. DHS's petition alleged that they received a General Protective Services ("GPS") report that Mother was consuming hallucinogenic mushrooms and marijuana for a year. *Id.* The GPS report alleged that on

December 21, 2024, Mother contacted her cousin in an incoherent state and requested that someone retrieve Child from her care. **Id.** Mother contacted her cousin again on December 22, 2024. Emergency Medical Services were contacted, and Mother was transported to Hospital of the University of Pennsylvania Crisis Center. **Id.** DHS investigated the GPS report and confirmed that Mother did not have appropriate housing for Child, was engaged in illicit drug use and had mental health concerns. **Id.** On March 31, 2025, the Honorable Judge John P. Sabatina Jr. adjudicated Child dependent and removed Child from the care of Mother.

On March 16, 2026, a permanency review hearing for Child was held before the Honorable Judge Tamika Washington. DHS called Community Umbrella Agency ("CUA") case manager Ashley Jeffries to testify. N.T., 3/16/2026, at 6. Jeffries testified that Child was in kinship placement with his maternal aunt who was certified by P.A. Mentor. **Id.** at 6. Child was doing well in the home and was up to date with medical and dental appointment[s]. **Id.** ... Jefferies testified that Mother's single case plan objectives were to follow up with any recommendations for drug and alcohol treatment, sign releases of information, verify treatment with CUA, participate in Child's medical appointments, maintain a viable source of income, provide CUA with the source of income, update CUA on her housing status, communicate visitation with caregiver, complete random drug screens as part of drug and alcohol classes and follow recommendations from her mental health assessment. **Id.** at 10.

Jeffries confirmed that Mother was engaged in a drug and alcohol program and mental health treatment at Northeast Treatment Centers ("NET"). **Id.** at 11. Jeffries contacted Mother's drug and alcohol counselor and did not receive a response. **Id.** at 11. Prior to the previous permanency review hearing, Jeffries received an update from NET which indicated that Mother consistently attended treatment. **Id.** at 12. Jeffries did not observe that Mother was under the influence of illicit substances during their interactions. **Id.** ...

DHS called Robert Buchhofer, Clinical Care Manager Specialist for Community Behavioral Health as its second witness. **Id.** at 24. Buchhofer testified that Mother had four acute inpatient hospitalizations in the last year. **Id.** ... Buchhofer stated that Mother was admitted on March 14, 2025[,] and discharged on March 21, 2025; admitted on March 24, 2025[,] and discharged

on April 8, 2025; admitted on January 2, 2026[,] and discharged on January 9, 2026; and admitted on January 19 and discharged on January 23, 2026. **Id.** at 24-25. Upon discharge on January 23, 2026, Mother was diagnosed with unspecified schizophrenia, spectrum and other psychotic disorder and unspecified catatonia. **Id.** at 25. Mother was prescribed Zyprexa. **Id.** ... Mother's discharge scheduled an intake at NET on January 27, 2026. **Id.** ... Buchhofer found no billing statement to indicate that Mother attended her scheduled intake on January 27, 2026 or engaged in mental health services. **Id.** at 26. Buchhofer confirmed that Mother was eligible for Community Behavioral Health services. **Id.** ...

Mother's counsel called Mother to testify. **Id.** at 27. Mother testified that she was hospitalized from January 16, 2026 to January 23, 2026. **Id.** ... Mother denied that she was diagnosed with schizophrenia. **Id.** at 28. Mother stated that [she] was hospitalized due to anxiety. **Id.** ... Mother then stated that she was diagnosed as bipolar and that she was working with a mental health therapist. **Id.** ... Mother began receiving weekly mental health treatment at NET beginning in the Fall of 2025. **Id.** at 29. Mother stated that she had documentation that she was compliant with therapy and that the only medication that she was prescribed was Olanzapine, a mood stabilizer. **Id.** at 30.

On cross-examination, Mother confirmed that Olanzapine was a generic version of Zyprexa. **Id.** at 33. Mother's counsel stated that she was in receipt of a treatment plan and letter from Mother's therapist. **Id.** at 34. Th[e trial c]ourt asked if the therapist's letter addressed the discharge recommendations following Mother's hospitalization from January 19, 2026 to January 23, 2026. **Id.** ... Mother's counsel stated that the letter did not address Mother's most recent discharge from hospitalization on January 23, 2026. **Id.** ... Mother's counsel then admitted that she did not have information from Mother's psychiatrist since the beginning of treatment on July 30, 2025. **Id.** at 38.

DHS requested that a copy of Mother's July 2025 psychiatric evaluation at NET and updated treatment plan and progress report for mental health be provided to all parties. **Id.** at 43. Mother's counsel stated that there was no objection to providing the discharge recommendations from Mother's July 30, 2025 discharge and January 23, 2026 discharge and then argued that

Mother has an expectation of privacy and that the discharge information was not necessary. **Id.** at 45-46. Th[e trial c]ourt ordered that the July 30, 2025, January 9, 2026 and January 23, 2025 psychiatric and discharge reports be provided to all parties. **Id.** at 50. Th[e trial c]ourt's March 16, 2026 permanency review order states, "A copy of Mother's July 30, 2025, January 9, 202[6] & January 23, 2026 Psychiatric Evaluations to be provided to all counsel prior to the next court date."

Trial Court Opinion, 6/3/2026, at 1-4 (cleaned up).

On April 15, 2026, Mother filed a motion for reconsideration and an emergency petition to stay the March 16, 2026 order. Mother argued that the trial court's order violated her privacy interests and sought reconsideration or a stay pending her pursuit of a collateral appeal. On that same date, before the trial court decided Mother's motion/petition, she filed a notice of appeal and concise statement of matters complained of on appeal pursuant to Pa.R.A.P. 1925(b). Despite Mother's appeal, on May 14, 2026, the trial court granted her motion for reconsideration, and rescinded its prior order.¹ On

¹ The trial court did not have jurisdiction to enter its May 14, 2026 order granting reconsideration. An order expressly granting reconsideration must be issued within the time prescribed by the Pennsylvania Rules of Appellate Procedure for filing a notice of appeal—thirty days. Pa.R.A.P. 1701(b)(3); Pa.R.A.P. 1701, Note (stating that a trial court has only 30 days from the entry of a final order to "modify or rescind" its order) (citing 42 Pa.C.S. § 5505). Here, the trial court had not expressly granted Mother's motion for reconsideration within thirty days of the March 16, 2026 order, and Mother filed her notice of appeal on the thirtieth day after entry of that order. **See Moyer v. Shaffer**, 305 A.3d 1064, 1066 n.1 (Pa. Super. 2023); **see also** Pa.R.A.P. 1701. Accordingly, the trial court did not have jurisdiction to grant reconsideration, and the order is "a legal nullity, which this Court will not consider in our analysis of the instant appeal." **Moyer**, 305 A.3d at 1066 n.1.

May 19, 2026, Mother filed an application to withdraw the appeal with this Court based on the trial court's grant of reconsideration. This Court denied her application, and further directed the trial court to decide Mother's petition for a stay. **See** Order, 5/26/2026, at 1-2 (per curiam). On May 27, 2026, the trial court granted Mother's request for a stay pending the outcome of the appeal. On June 3, 2026, the trial court issued a Rule 1925(a) opinion.

On appeal, Mother raises the following question for our review: "Did the trial court commit an error of law and abuse its discretion by ordering the release of Mother's July 30, 2025, January 9, 2026, and January 23, 2026 inpatient psychiatric evaluations to all counsel in violation of Mother's statutory and United States and Pennsylvania constitutional right to privacy?" Mother's Brief at 2.

Appealability

Preliminarily, we must determine whether the trial court's order is appealable, as the appealability of an order implicates our jurisdiction.² **Swatt v. Nottingham Vill.**, 342 A.3d 23, 32 (Pa. Super. 2025) (en banc). "Jurisdiction is purely a question of law; the appellate standard of review is de novo, and the scope of review plenary." **Funk v. Empfield**, 281 A.3d 315,

² On April 29, 2026, this Court issued a rule to show cause, as the March 16, 2026 order did not appear to be a final order, and directed Mother to explain the appealability of the order. Order, 4/29/2026 (per curiam). Mother responded that it was appealable as a collateral order. Response, 5/6/2026, at 1-4. This Court discharged its rule to show cause and referred the issue to this panel. Order, 5/7/2026 (per curiam).

317 (Pa. Super. 2022) (citation omitted). In order to be appealable, the order must be: (1) a final order, Pa.Rs.A.P. 341, 342; (2) an interlocutory order appealable by right or permission, 42 Pa.C.S. § 702(a)-(b); Pa.Rs.A.P. 311, 312; or (3) a collateral order, Pa.R.A.P. 313.

“An appeal may be taken as of right from a collateral order of a trial court[.]” Pa.R.A.P. 313(a).

To qualify as a collateral order: (1) the order must be separable from, and collateral to, the main cause of action; (2) the right involved must be too important to be denied review; and (3) the question presented must be such that if review is postponed until after final judgment, the claim will be irreparably lost.

Chilutti v. Uber Techs., Inc., 349 A.3d 826, 831-32 (Pa. 2026) (citation and quotation marks omitted); ***see also*** Pa.R.A.P. 313(b).

An order is separable from the main cause of action if it is entirely distinct from the underlying issue in the case and if it can be resolved without an analysis of the merits of the underlying dispute. A right is important if the interests that would potentially go unprotected without immediate appellate review are significant relative to the efficiency interests sought to be advanced by adherence to the final judgment rule. Further, the right involved must implicate interests deeply rooted in public policy and going beyond the particular litigation at hand. Finally, the irreparability prong is met if the claim will be irreparably lost if appellate review is postponed until final judgment.

Shirley v. Pennsylvania Legis. Reference Bureau, 318 A.3d 832, 847 (Pa. 2024) (cleaned up). “Rule 313 must be interpreted narrowly, and each of the above prongs must be clearly present for an order to be considered collateral.”

Red Vision Sys., Inc. v. Nat’l Real Est. Info. Servs., L.P., 108 A.3d 54, 58 (Pa. Super. 2015) (citation omitted).

“Generally, discovery orders are not appealable as they do not dispose of the litigation.” **Id.** (citation omitted). “On the other hand, discovery orders requiring disclosure of privileged materials generally are appealable under Rule 313 where the issue of privilege is separable from the underlying issue.” **Fisher v. Erie Ins. Exch.**, 258 A.3d 451, 460 (Pa. Super. 2021) (citation omitted). “This is because if immediate appellate review is not granted, the disclosure of documents cannot be undone and subsequent appellate review would be rendered moot.” **Id.** (citation omitted).

Here, the trial court’s order directing that Mother provide her July 30, 2025, January 9, 2026, and January 23, 2026 psychiatric evaluations to all counsel is separate and distinct from the merits of the underlying dependency action. **See Gormley v. Edgar**, 995 A.2d 1197, 1200 (Pa. Super. 2010) (finding disclosure of mental health records was separable from personal injury cause of action arising out of a motor vehicle collision); **see also Commonwealth v. Alston**, 864 A.2d 539, 545 (Pa. Super. 2004) (noting that appeal from ruling requiring a psychiatric examination was “separable from the main cause of action because the propriety of the order may be addressed without analysis of the merits of the underlying criminal action”). Second, Mother’s privacy interest in her psychiatric records and the psychiatrist-patient privilege is too important to be denied review. **See T.M. v. Elwyn, Inc.**, 950 A.2d 1050, 1058 (Pa. Super. 2008) (stating that materials involving sensitive mental health information “implicates the

'importance' prong of the collateral order doctrine because the privacy rights involved are deeply rooted in public policy"); **see also Commonwealth v. Kyle**, 533 A.2d 120, 131 (Pa. Super. 1987) ("the purpose of the psychologist-client privilege is to aid in the effective treatment of the client by encouraging the patient to disclose information fully and freely without fear of public disclosure."). Finally, if Mother's psychiatric records were disclosed, the privilege would be invaded and her privacy would be irreparably lost. **See T.M.**, 950 A.2d at 1058 ("claim of privilege would be irreparably lost, as it would be forced to disclose information in conformance with the trial court's discovery orders"); **see also Commonwealth v. Harris**, 32 A.3d 243, 249 (Pa. 2011) (concluding that the right to not disclose material covered by psychologist-client privilege would be destroyed if review of discovery order awaited an appeal filed after the final judgment). Thus, we conclude that all three prongs of the collateral order doctrine are met and we will address the claim Mother raises on appeal.

Disclosure of Mental Health Records

Mother raises three alternative arguments as to why her records should not be disclosed. As Mother's privacy claim is dispositive, however, we will focus on that argument.³ She argues that the trial court's order directing the

³ Mother additionally contends that the mental health evaluations are protected by the psychiatrist-patient privilege. Mother's Brief at 10-12 (citing 42 Pa.C.S. § 5944). Alternatively, Mother claims that the Mental Health *(Footnote Continued Next Page)*

disclosure of her mental health records violated her privacy rights under the Pennsylvania Constitution.⁴ Mother's Brief at 16-18. Mother contends that her constitutional right to privacy must be balanced against a state's interest in "discovering enough information about the children and their parents to make intelligent decisions about placement of the children." **Id.** at 17 (quoting **In re T.R.**, 731 A.2d 1276, 1280 (Pa. 1999) (plurality)). Mother asserts that the state cannot compel the release of the records if there is a less intrusive means to obtain the information. **Id.** According to Mother, there were less intrusive methods to obtain the requested information, and the trial court admits that a statement from her psychiatrist indicating she is engaged in treatment would be sufficient to establish she is receiving mental health treatment for reunification. **Id.** at 19-20. Mother observes that the trial court had information spanning thirteen months on Mother's parenting ability, and it had access to her treatment plans and information from her providers that included her diagnoses. **Id.** at 19. Mother asserts that DHS

Procedures Act ("MHPA"), 50 P.S. §§ 7111-7503, protects her mental health records. Mother's Brief at 13-15.

⁴ Although Mother also cites the United States Constitution, she presents no related argument. As her entire claim is premised on the Pennsylvania Constitution, we will evaluate her right to relief on that basis only.

did not provide a compelling interest that would be furthered by obtaining her records. ***Id.***⁵

In its 1925(a) opinion, the trial court explains it agrees with Mother that she is entitled to relief:

Th[e trial c]ourt improperly ordered Mother's July 30, 2025, January 9, 2026 and January 23, 2026 inpatient psychiatric evaluations be provided to all counsel. The instant case differs from ***T.R.*** as Mother has seemingly already received mental health treatment and the [trial c]ourt is only seeking information regarding said treatment instead of ordering Mother to take part in an evaluation. Similar to ***T.R.***, however, in the instant case Mother's privacy interest in the nature of her mental health and psychiatric treatment are implicated. At the March 16, 2026 permanency review hearing, evidence offered by DHS indicated that Mother had mental health concerns which were a barrier to her reunification with Child. N.T., 3/16/2026, at 9-12, 25-26. Th[e trial c]ourt heard contrasting testimony from DHS witnesses and Mother regarding the status of her treatment. ***Id.*** at 25-26, 28-31. Th[e trial c]ourt received no evidence that Mother was engaged in mental health treatment which specifically addressed her most recent hospitalizations in 2026. While th[e trial c]ourt does believe that additional information regarding Mother's mental health is necessary for completion of her single case plan objectives and reunification with Child, there are less intrusive mean through which goals of the Juvenile Act can be achieved. Mother's complete psychiatric records do not need to be provided to all parties for the governmental purpose to be met. Information regarding Mother's mental health can be provided to Mother's CUA case worker so that treatment can be verified. There is no compelling reason that Mother's mental health information needs to be disclosed to Father and Father's counsel. Further, in lieu of complete records, a statement from Mother's psychiatrist indicating that Mother is engaged in treatment in accordance with her January 23, 2026 discharge would provide sufficient evidence that Mother is receiving mental health treatment needed for

⁵ DHS did not file a brief in this matter, but filed a letter agreeing with Mother's claims that the trial court improperly ordered her to provide her psychiatric evaluations to all counsel. DHS Letter, 7/24/2026.

reunification. Due to the availability of less intrusive means to ascertain the status of Mother's mental health treatment, th[e trial c]ourt requests that its order be vacated and the case be remanded for further findings.

Trial Court Opinion, 6/3/2026, at 7-8.

"Generally, in reviewing the propriety of a discovery order, our standard of review is whether the trial court committed an abuse of discretion. However, to the extent that we are faced with questions of law, our scope of review is plenary." **Gormley v. Edgar**, 995 A.2d 1197, 1202 (Pa. Super. 2010).

A privacy interest in avoiding disclosure of personal matters "finds explicit protection in the Pennsylvania Constitution, Art. 1, § 1[.]" **In re June 1979 Allegheny Cnty. Investigating Grand Jury**, 415 A.2d 73, 77 (Pa. 1980). Article 1, Section 1 of the Pennsylvania Constitution provides: "All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness." PA. CONST. art. 1, § 1.

Although the right to privacy is of constitutional dimension, it is not unqualified. Privacy claims must be balanced against state interests. Our test of whether an individual may be compelled to disclose private matters ... is that government's intrusion into a person's private affairs is constitutionally justified when the government interest is significant and there is no alternate reasonable method of lesser intrusiveness to accomplish the governmental purpose. ... There must be both a compelling, i.e., "significant" state interest and no alternate reasonable method of lesser intrusiveness.

In re D.S., 102 A.3d 486, 489-90 (Pa. Super. 2014) (cleaned up).

In ***T.R.***—a case relied upon by both the trial court and Mother in this matter—the trial court ordered the mother to undergo a psychological evaluation to determine if she had the capability to care for her children, and indicated that it had the power to release the examination results to the parties. ***T.R.***, 731 A.2d at 1277-78. Subsequently, the trial court stayed the order requiring the release of the results of the examination to allow the mother to appeal. ***Id.*** at 1278. This Court affirmed, finding the trial court did not violate the mother’s constitutional right to privacy “because the state’s compelling interest of protecting [the child’s] future well-being and familial reunification outweighed appellant’s privacy intrusion.” ***Id.***

In an opinion announcing the judgment of the Court, our Supreme Court observed that although the mother’s exercise of her rights may work to her detriment,

[t]he real issue in the case ... is not so much whether the children should be removed, as whether the mother should be protected from her own assertion of a constitutional right because the assertion of that right may impede the efforts of the courts to return the children to her care.... The mother, alas, may be her own worst enemy and her shortcomings as a parent may result in the permanent removal of her children; nonetheless, the mother remains a free person, and her power to assert her constitutional right to privacy is not diminished merely because the representatives of the state think it is ill advised.

Id. at 1281. The Court ultimately reversed, finding:

Compelling a psychological examination in this context is ... social engineering in derogation of constitutional rights, and where ... there is an abundance of information about the ability of the

parent to be a parent, there is no state interest, much less a compelling state interest, in the ordering of parental psychological examinations.

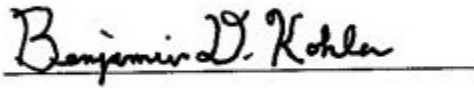
Id.

Although not precedential, we find the above analysis from ***T.R.*** to be persuasive.⁶ In the context of this case, compelling Mother to provide several of her past psychiatric records to all counsel so that the trial court can confirm she is currently compliant with her mental health treatment lacks a compelling state interest and is thus an unconstitutional invasion of her privacy. As the trial court recognized, there were other, far less intrusive methods available to the court to determine Mother's ability to care for Child and her current compliance with her mental health treatment. ***See In re D.S.***, 102 A.3d at 490 (noting an intrusion into a person's private affairs must be both a compelling state interest and no alternative "reasonable method of lesser intrusiveness"). Thus, we vacate the order and remand for further proceedings. ***See id.*** at 491-92 (reversing trial court's order directing a father to undergo a psychiatric evaluation, explaining that although there is no absolute bar to ordering a psychiatric evaluation, the trial court's order was not the least invasive means of achieving its goal).

⁶ It is well settled that "[p]lurality opinions, by definition, establish no binding precedent for future cases." ***Commonwealth v. McClelland***, 233 A.3d 717, 729 (Pa. 2020) (citation and quotation marks omitted).

Order vacated. Case remanded for further proceedings. Jurisdiction relinquished.

Judgment Entered.

A handwritten signature in cursive script, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 10/13/2026